

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

DENNIS MUSGRAVES, #16790-004

Petitioner,

v.

ACTION NO. 2:04CV684

VANESSA P. ADAMS, WARDEN,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. The petition alleges violation of federal rights pertaining to the calculation of good time credits related to plaintiff's conviction in the United States District Court for the Southern District of Florida for conspiracy to possess with intent to distribute marijuana aboard a vessel, possession with intent to distribute more than 1,000 kilograms of marijuana, and using and carrying a firearm during a drug trafficking crime. Petitioner does not, in this proceeding, attack the underlying convictions.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 29 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge filed his report recommending dismissal of the petition on September 7, 2005. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The court has received no objections to the report and the time for filing same has expired.

The court does hereby accept the findings and recommendations set forth in the report of the United States Magistrate Judge filed September 7, 2005, and it is, therefore, ORDERED that the petition be

DENIED and DISMISSED on the basis of the merits and that judgment be entered in respondent's favor.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within sixty days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 123 S. Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner and to counsel of record for respondent.

/s/Rebecca Beach Smith

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

September 28, 2005